IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.156 OF 1996

The State of Maharashtra
(through the Special Land
Acquisition Officer,Ratnagiri) ...Appellant

Vs.

Latif Babakhan Mujawar
(since deceased through legal heirs)
1. Jubeda Latif Mujawar
2. Joharabi Latif Mujawar
3. Nazim Latif Majawar
4. Wasid Latif Majawar
5. Sou. Nasim Aslam Mauktwalli
6. Salim Latif Majawar
7. Rafiq Latif Mujawar ...Respondents

Ms G.P.Mulekar,A.G.P. for the Appellant
Mr.R.G.Ketkar for the Respondents.

CORAM: A.S.OKA, J.
DATED: AUGUST 8,2006.

JUDGMENT:

1. Heard Advocates for the parties. The challenge in this Appeal by the State of Maharashtra is to the Judgment and Award dated 30th March 1994 passed by the learned Civil Judge Senior Division, Ratnagiri in a reference under section 18 of the Land Acquisition Act, 1894 (hereinafter referred to as the said Act) made at the instance of the Respondents.

2. The acquisition is in respect of the land bearing Survey No.245 Hissa No.1 admeasuring 10.9 R situated at village Zadgaon, Taluka Ratnagiri, District Ratnagiri. A

notification under section 126 (4) of the Maharashtra Regional Town Planning Act,1966 (hereinafter referred to as the said Act of 1966) read with section 6 of the said Act was issued on 6th April 1984. An Award was made by the Special Land Acquisition Officer on 30th September 1986. By the said Award the market value at the rate of Rs.3000/- per Are was offered to the Respondents. As the Respondents did not accept the said Award, a Reference was made under section 18 of the said Act. By the impugned Judgment and Award, the learned Trial Judge has fixed the market value at the rate of Rs.12,000/- per Are. Other statutory benefits have been granted to the Respondents.

3. The learned A.G.P. Ms Geeta Mulekar submitted that there was no basis for awarding compensation at the rate of Rs.12,000/- per Are. She submitted that additional amount of Rs.13,000/- in respect of the house standing on the acquired land could not have been granted by the Reference Court. The learned A.G.P. has taken me through notes of evidence and other documents on record. The learned Advocate for the Respondents supported the impugned Judgment and Award.

4. The original claimant Latif Babakhan Mujawar was examined before the Reference Court. He stated that his residential house was on the acquired property and there was one 40 years old mango tree. He stated that in the year 1984 the market

value of the acquired land was between Rs.12,000/- to 15,000/- per Are. In the Reference Court, the Respondents relied upon the sale deed dated 29th March 1984 executed by Dr.Sharad Prabhudesai and two others by which the land bearing Gat No.623 situated at village Rahataghar, Taluka Ratnagiri, District Raigad was sold to Shri Shankar Narahar Agashe and others. The market value at which the property was sold was Rs.12,000/- per Are. In the Award made by the Special Land Acquisition Officer, it is stated that the acquired land is situated in municipal area and it is of warkas nature. It is stated in the Award that the land acquired is situated in the heart of the city. It is stated that the S.T.Stand, Collector's office, Municipality office etc. are at the distance of 2 furlongs from the acquired land and the acquired land possesses non-agricultural potential. The original claimant stated in his deposition that the land which is subject matter of the aforesaid sale deed was at the distance of one kilometre from the acquired land. In view of the location of the acquired land as described in the Award by the Special Land Acquisition Officer, there is no reason why the sale instance of the sale deed at Exh.54 should not be considered as relevant for deciding the market value. Even according to the case of the Respondent the acquired land is situated in the heart of the city of Ratnagiri having non-agricultural potential. Therefore, no fault can be found if the market value of the

acquired land is fixed at Rs.12,000/- per Are.

5. So far as the additional amount granted towards house is concerned, the learned Trial Judge has relied upon the valuation made by the Executive Engineer of the Appellant in the sum of Rs.53,000/- in respect of the house. However, the Special Land Acquisition Officer had awarded only Rs.40,000/- towards the house. Additional amount of Rs.13,000/- has been ordered to be paid by the trial Court on the basis of the valuation made by the Executive Engineer of the Appellant-State Government. In this view of the matter, no fault can be found with the enhancement in compensation granted by the learned Trial Judge. In this case, there is no dispute as regards entitlement of the Respondent to receive the statutory benefits.

6. Hence I pass the following order :

. Appeal is dismissed with no order as to costs.

Judge.